

Applicant : Zyskind et al.  
Serial No. : 09/805,664  
Filed : March 13, 2001  
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Attorney's Docket No.: 13783-002002

## REMARKS

### Status of the Claims

#### *Pending claims*

Claims 1 to 88 as filed are pending.

### The Restriction Requirement

The Patent Office has alleged that the pending claims of the application are directed to three separate and distinct inventions under 35 U.S.C. §121:

- I. Claims 1-7, 11-13, 17-82 and 87, drawn to a method of ligand screening using nucleic acids, classified in class 435, subclass 6.
- II. Claims 1-5, 8-80, 83-87, drawn to a method of ligand screening using proteins, classified in class 435, subclass 7.1.
- III. Claim 88, drawn to a cell system, classified in class 435, subclass 240.2.

### The Election

In response to the Restriction Requirement, Applicants elect Group II, claims 1-5, 8-80, 83-87, drawn to a method of ligand screening using proteins.

### The Species

The Patent Office has further alleged that the claims are directed a first set of patentably distinct species as follows:

- Species I – *E. coli* ViaA gene, claim 37
- Species II – *E. coli* orf1 gene, claim 38
- Species III – *E. coli* lepB gene, claim 39
- Species IV – *E. coli* ugpB gene, claim 40
- Species V – *E. coli* ddiB gene, claim 41
- Species VI – *E. coli* secA gene, claim 42
- Species VII – *E. coli* fimF gene, claim 43
- Species VIII – *E. coli* fimD gene, claim 43

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The Patent Office has further alleged that the claims are directed a second set of patentably distinct species as follows:

- Species 1 – bacterium
- Species 2 – gram negative bacterium
- Species 3 – *E. coli*
- Species 4 – gram positive bacterium
- Species 5 – *Staph. aureus*
- Species 6 – fungus
- Species 7 – yeast
- Species 8 – *Archaeobacteria*
- Species 9 – pathogen (e.g., viruses)

#### The Species Election

In response, Applicants elect Species I – *E. coli* ViaA gene, claim 37, and Species 1 – bacterium.

When the elected species is held to be allowable, Applicants are entitled to consideration (examination) of additional species; if all species are held to be allowable, a generic claim should be allowed (MPEP §809.02(c); pg 800-50, 8<sup>th</sup> Edition, August 2001).

#### Information Disclosure Statements

Applicants note that four Information Disclosure Statements have been filed: on March 13, 2001, June 18, 2001, July 2, 2001, and November 7, 2001.

Applicant believes that additional fees are required for submission of this Response. However, if a fee is required, the Commissioner is authorized to deduct such fee from the undersigned's Deposit Account No. 06-1050. Please credit any overpayment to the above-noted Deposit Account.

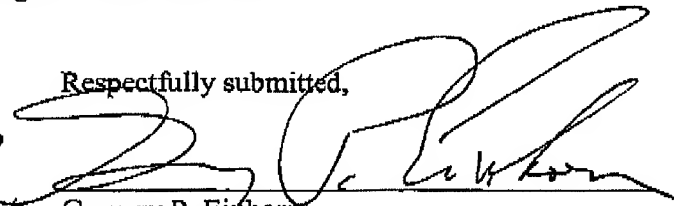
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If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858 678 5070.

Respectfully submitted,

Date:

*July 1, 2002*  


Gregory P. Einhorn  
Reg. No. 38,440

Fish & Richardson P.C.  
4350 La Jolla Village Drive, Suite 500  
San Diego, CA 92122  
Telephone: (858) 678-5070  
Facsimile: (858) 678-5099

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